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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

ANTONIO ROCHER,

Defendant and Appellant.

D054977

(Super. Ct. No. SCS223764)

APPEAL from a judgment of the Superior Court of San Diego County, Esteban Hernandez, Judge. Affirmed.

Antonio Rocher entered a negotiated guilty plea to mayhem (Pen. Code, § 203)¹ and admitted he had a prior serious felony conviction (§ 667, subd. (a)(1)) and a prior serious/violent felony or strike conviction (§ 667, subds. (b)-(i)). In exchange, the prosecution agreed to dismiss the remaining charges of torture and assault with a deadly weapon and allegations he inflicted great bodily injury and personally used a knife. The

¹ Statutory references are to the Penal Code.

plea bargain also called for a stipulated prison sentence of nine years. The trial court sentenced Rocher to nine years in prison—the low term of two years doubled under the Three Strikes law plus a five-year enhancement for the prior serious felony conviction.

FACTS

On the night of October 16, 2008, Javier Ocegüera was standing in line at the Purple Cow Liquor Store waiting to purchase a cigar. Rocher entered the store and also stood in line; there was another individual between him and Ocegüera. When Ocegüera reached the front of the line and was being helped by the clerk at the counter, Rocher stepped out of line and approached Ocegüera from behind, touching his lower back twice.

At the hospital, a CAT scan revealed that Ocegüera had been stabbed, and, as a result, his spleen was bleeding. Ocegüera underwent surgery in which his spleen was removed.

Several years prior to the incident, Ocegüera had sold Rocher a home receiver radio for \$100 and when it stopped working, Rocher asked for his money back. Ocegüera refused. Since then the windows in Ocegüera's vehicle were broken and his vehicle was spray painted. Rocher threatened Ocegüera several times, and on one occasion they engaged in a fistfight. Rocher tried to run over Ocegüera, his father and his girlfriend. On another occasion, Rocher's vehicle hit Ocegüera's father.

DISCUSSION

Appointed appellate counsel has filed a brief summarizing the facts and proceedings below. Counsel presents no argument for reversal, but asks this court to review the record for error as mandated by *People v. Wende* (1979) 25 Cal.3d 436.

Counsel has not referred us to any possible, but not arguable, issues under *Anders v. California* (1967) 386 U.S. 738.

We granted Rocher permission to file a brief on his own behalf. He has not responded.

A review of the record pursuant to *People v. Wende, supra*, 25 Cal.3d 436, and *Anders v. California, supra*, 386 U.S. 738, has disclosed no reasonably arguable appellate issues. Rocher has been adequately represented by counsel on this appeal.

DISPOSITION

The judgment is affirmed.

BENKE, Acting P. J.

WE CONCUR:

HUFFMAN, J.

O'ROURKE, J.